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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,033	12/31/2003	Harold Dillingham	20573.020	9233

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EXAMINER
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HARTMANN, GARY S

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/750,033	Applicant(s) DILLINGHAM, HAROLD	
	Examiner Gary Hartmann	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 33 and 34 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-11, 15, 33 and 34 is/are rejected.  
 7) ☒ Claim(s) 12-14 and 16-18 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12-31-3</u> . | 6) <input type="checkbox"/> Other: _____  |

4

## **DETAILED ACTION**

### ***Claim Objections***

Claim 5 is objected to because "the screw conveyor" (line 2) lacks proper antecedent basis. Appropriate correction is required.

Claims 14 and 18 are objected to. Regarding claim 14, the phrase "less than approximately" (line 2) should be either --less than-- or --approximately--, not both, since the scope of the claim is unclear. Similarly, with respect to claim 18, the phrase "does not exceed approximately" is unclear. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitations of claim 15 appear to conflict with the limitations of parent claim 1.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3671

Claims 1-3, 6-11, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over King (U.S. Patent 4,695,186) in view of Holtom (U.S. Patent 5,960,710).

King discloses the hopper (13) having a powered dispensing implement (63), hinged door (31, 32) and hydraulic actuating cylinder (44) arranged as claimed. The interlock device/control system is not disclosed. Holtom teaches a hydraulic actuating cylinder (18), door (12) and hopper (11) with an interlock/control system arranged as claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the interlock device/control system of Holtom with the hopper of King in order to increase safety, as taught by Holtom.

The powered implement is a rotating screw.

A hydraulic motor (not shown) is disclosed as a driving means for the screw conveyor.

Asphalt mix is taught. Regarding claims 34 and 35, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the materials as claimed in order to suit a particular application.

The hopper body is configured for transport on a truck chassis (Figure 1).

The doors are bi-fold doors (Figure 2).

Regarding claim 11, the hydraulic cylinder operates in the manner claimed.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over King and Holtom as applied above, and further in view of Dillingham (U.S. Patent 5,988,935).

Dillingham teaches the configuration as claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used this configuration in order to dispense materials as needed in a particular application.

Art Unit: 3671

*Allowable Subject Matter*

Claims 12-14 and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Also, note the objection to claims 14 and 18, above.

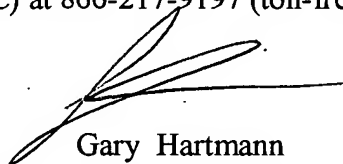
*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Monday through Thursday, 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Gary Hartmann  
Primary Examiner  
Art Unit 3671